## REMARKS

The present Amendment amends claims 1, 2, 4, 5, and 9, adds new claims 11-16 and leaves claims 3, 6-8 and 10 unchanged. Therefore, the present application has pending claims 1-16.

## Specification

The Examiner objected to the abstract of the disclosure, noting that it contains more than 150 words. Applicants have amended the abstract to overcome this objection. Accordingly, this objection should be withdrawn.

## 35 U.S.C. §112 Rejections

Claims 1-10 stand rejected under 35 U.S.C. §112, second paragraph as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. This rejection is traversed for the following reasons. Applicants submit that claims 1-10, as now more clearly recited, are in compliance with the provisions of 35 U.S.C. §112.

## 35 U.S.C. §102 Rejections

Claims 1, 2, 4-6, 9, and 10 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,487,718 to Rodriguez. This rejection is traversed for the following reasons. Applicants submit that the features of the present invention as now more clearly recited in claims 1, 2, 4-6, 9, and 10 are not taught or suggested by Rodriguez, whether taken individually or in combination any of the other references of record. Therefore, Applicants respectfully request the Examiner to reconsider and withdraw this rejection.

Amendments were made to the claims to more clearly describe features of the present invention. Specifically, amendments were made to the claims to more clearly recite that the present invention is directed to a system-updating method, a vendor computer system, and a user computer system as recited, for example, in independent claims 1, 4, 5, and 9.

The present invention, as recited in claim 1, and as similarly recited in claims 4, 5 and 9, provides a system-updating method for updating software installed in a user computer system. The method includes a step of acquiring user computer system information including information on hardware employed in the user computer system and information on the software installed in the user computer system. The method also includes a step of constructing a test environment for testing operations of the user computer system, based on the acquired user computer system information. The method further includes a step of updating the software in the test environment by using a software-updating patch. Also included in the method is a step of determining whether or not the operations of the user computer system are carried out normally by execution of the updated software in the test environment. Furthermore, the method includes a step of supplying the software-updating patch to the user computer system and using the software-updating patch to update the software installed in the user computer system if the operations of the user computer system are determined to be normal. The prior art does not disclose all of these features.

The above described features of the present invention, as now more clearly recited in the claims, are not taught or suggested by any of the references of record, particularly Rodriguez, whether taken individually or in combination with any of the other references of record.

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Rodriguez teaches a method and apparatus for installing application in a distributed data processing system. However, there is no teaching or suggestion in Rodriguez of the system-updating method as recited in claims 1 and 5 of the present invention.

Rodriguez discloses a method and apparatus for installing an application on a client computer. An image is created of a selected client computer. The image of the selected client computer is placed on another computer. The application is installed on the other computer, where an update image is created. The updated image is sent back to the client computer.

Features of the present invention, as recited in claim 1, and as similarly recited in claims 4, 5, and 9, includes steps of constructing a test environment for testing operations of the user computer system based on the acquired user computer system information, updating software in the test environment by using a software-updating patch, determining whether the operations of the user computer system are carried out normally by execution of the updated software in the test environment, and supplying the software-updating patch to the user computer system, and if the operations of the user computer system are determined to be normal, using the software-updating patch to update the software installed in the user computer system. Rodriguez does not disclose this combination of features. To support the assertion that Rodriguez teaches these features, the Examiner cites column 7, lines 55 to column 8, line 3. However, neither the cited text nor any other portion of Rodriguez teaches or suggests the claimed features.

According to the present invention, if a verification test ends in a failure, the vendor system corrects the software-updating patch based on the verification test result, and again performs the verification test by using the corrected software-

updating patch (see, e.g., page 16, lines 15-25 of the specification). Therefore, the present invention enables the supply of the most appropriate software-updating patch for each user system, by correcting the software-updating path, even if each user system has a different environment from that of others.

Also according to the present invention, the user system can update software without restarting programs and operating system (see, e.g, page 18, lines 3-18). Therefore, this invention enables the update of software of the user system, without interruption of the user's operations. As described on page 19, line 11 to page 20, line 19, the vendor system constructs logical partitions of the same function as the user system, based on the user-system information (see, Fig. 9), or emulates the same platform as the user system by using software.

Furthermore, according to the present invention, even if there is no necessary hardware device in the vendor system when each user system uses a different computer or device from that of others, the same platform can be constructed by using virtual hardware having the same function. The vendor system of the present invention carries out the verification text by using a test pattern. By using the test pattern, the necessary test for a software-updating patch is different from others.

Rodriguez is quite different from the present invention. As described in column 7, line 59 to column 8, line 3, Rodriguez discloses where a network computer is selected to have a configuration that is identical to that of the client from which the image was taken. The new application is installed in the network computer, and the application is tested in the new environment. Next, a determination is made as to whether the client is active. This step is used to determine whether the client that is to receive the updated snapshot image is turned on, so that the snapshot image can be sent to the client. If the client is active, the

updated snapshot image is then queued for commit to the server with the process

terminating thereafter.  This is not the same as the present invention.

For example, Rodriguez does not disclose where a vendor system constructs

a test environment having the same condition as a user system to be updated with

software, and executing test operations in the test environment before applying a

software-updating patch to the user system, and further applying the software-

updating patch when execution of the test operations performs successfully, as in

the present invention.

Therefore, Rodriguez fails to teach or suggest "constructing a test

environment for testing operations of said user computer system based on said

acquired user computer system information; updating said software in said test

environment by using a software-updating patch; determining whether or not said

operations of said user computer system are carried out normally by execution of

said updated software in said test environment; and supplying said software-

updating patch to said user computer system and using said software-updating

patch to update said software installed in said user computer system if said

operations of said user computer system are determined to be normal" as recited in

claim 1, and as similarly recited in claims 4, 5 and 9.

Therefore, Rodgriguez does not teach or suggest the features of the present

invention, as recited in claims 1, 2, 4-6, 9, and 10.  Accordingly, reconsideration and

withdrawal of the 35 U.S.C. §102(b) rejection of claims 1, 2, 4-6, 9, and 10 as being

anticipated by Rodriguez are respectfully requested.

The remaining references of record have been studied.  Applicants submit

that they do not supply any of the deficiencies noted above with respect to the

references used in the rejection of claims 1, 2, 4-6, 9, and 10.

## 35 U.S.C. §103 Rejections

Claim 3 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Rodriguez in view of U.S. Patent No. 7,191,435 to Lau. Claim 3 is dependent on claim 1. Therefore, claim 3 is allowable for at least the same reasons previously discussed regarding independent claim 1.

Claims 7 and 8 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriguez in view of U.S. Patent no. 6,751,794 to McCaleb. Claims 7 and 8 are dependent on claim 5. Therefore, claims 7 and 8 are allowable for at least the same reasons previously discussed regarding independent claim 5.

## New Claims 11-16

Claims 11-16 were added to more clearly describe features of the present invention. Claims 11-13 are dependent on claim 1, and claims 14-16 are dependent on claim 5. Therefore, claims 11-16 are allowable for at least the same reasons previously discussed regarding independent claims 1 and 5.

In view of the foregoing amendments and remarks, Applicants submit that claims 1-16 are in condition for allowance. Accordingly, early allowance of claims 1-16 is respectfully requested.

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To the extent necessary, the applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the deposit account of MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C., Deposit Account No. 50-1417 (referencing Attorney Docket No. 520.43557X00).

Respectfully submitted,

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